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3 Attorney for Plaintiff

4 UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

5 MATT MOONIN, DONN YARNALL,
6 and ERIK LEE,

7 Plaintiffs,

8 vs.

**REPLY TO RESPONSE TO MOTION FOR
LEAVE TO FILE SECOND AMENDED
COMPLAINT AND JURY DEMAND**

9 DAVE LEWIS, KEVIN TICE,
10 JIM PETERSON, CHRIS PERRY,

11 Defendants.
12 _____/

13 COMES NOW Plaintiffs MATT MOONIN, DONN YARNALL and ERIK LEE, by and
14 through their attorney of record, KENNETH MCKENNA, ESQ., and hereby reply to
15 STATE OF NEVADA DEPARTMENT OF PUBLIC SAFETY Defendants' RESPONSE
16 TO PLAINTIFF'S MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT
17 AND JURY DEMAND.

18 **POINTS AND AUTHORITIES**

19 Respectfully, this Court has discretion to allow leave to amend in the interests of
20 justice. Factors to consider are undue delay, bad faith, prejudice and futility. *Foman v.*
21 *Davis*, 371 178, 182 (1962). Plaintiff inadvertently omitted the three defamation claims
22 that survived and seeks to correct this omission as reflected in the proposed second
23 amended complaint. Plaintiff cleans up the pleading by omitting dismissed claims and by
24 deleting factual allegations that are no longer relevant to the existing claims. The result is
25 a complaint of thirty pages in length, compliant with the Court's earlier dictate. Plaintiff

1 submits the purpose of the present effort is in the interest of justice, not in bad faith and
2 does not cause any undue hardship on the Defendants. Again, there is no bad faith,
3 simply inadvertence. Defendants are faced with a cleaner pleading to which to respond.
4 Based upon the foregoing, Plaintiffs request that leave be granted and that Plaintiffs be
5 allowed to serve and file the proposed second amended complaint.

6 Dated: September 4, 2014.

7 _____/s/_____

8 Kenneth J. McKenna
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KEN MCKENNA, Esq.
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CERTIFICATE OF SERVICE

The undersigned, under penalty of perjury, declares and certifies that I am over 18 years of age and not a party to the within action; that I am an employee of KENNETH J. McKENNA, Attorney at Law, a Professional Corporation, and as such am familiar with the practices of his law office; and that on this date, did personally cause the foregoing attached document to be served as further described below:

By placing an original and true copy in a sealed envelope Containing First Class Postage and depositing it in the U.S. Mail at Reno, Nevada.

☒ CM/ECF electronic email delivery
☐ Email delivery to
☐ Express or overnight mail delivery
☐ Reno/Carson Messenger Delivery Service

Addressed as follows:

Cameron Vandenberg
Deputy Attorney General
5420 Kietzke Lane, Suite 202
Reno, NV 89511

DATED: September 4, 2014

/s/ Monica Waugh
An Employee of Kenneth J. McKenna, Esq.

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